

Kevin Phillips
Special Assistant Attorney General
State Auditor's Office
840 Helena Ave.
Helena, MT. 59601
Kphillips2@mt.gov

Attorney for State Auditor

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:)	CASE NO. INS 2006-48
)	
THE PROPOSED DISCIPLINARY)	CONSENT AGREEMENT
TREATMENT OF PRE-PAID LEGAL)	AND FINAL ORDER
CASUALTY, INCORPORATED, and)	
CHARLEY A. SIMMONS,)	
)	
Respondents.)	

The State Auditor and Commissioner of Insurance of the state of Montana (Commissioner), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann., § 33-1-101, *et seq.*, hereby makes the following allegations which justify and support disciplinary treatment:

I.

ALLEGATIONS

1. Charley A. Simmons was originally licensed by the Insurance Department on July 23, 1999. He had one appointment with Pre-Paid Legal Casualty, Incorporated.

2. Pre-Paid Legal Casualty, Incorporated (PPL) became an authorized insurer in Montana on July 12, 1999. PPL has its corporate headquarters in Ada, Oklahoma.
3. Simmons' license lapsed on August 1, 2004, for failure to file continuing education credits with the Insurance Department.
4. Simmons' license terminated on August 1, 2005, for his failure to file continuing education credits with the Insurance Department.
5. On October 31, 2005, Myrna O'Dell, License Permit Technician explained to Simmons via phone how his license termination came about.
6. On December 16, 2005, Kathy Aaron, Regional Vice-President for PPL, talked via phone with Mary Arnold of Continuing Education in the Insurance Department. Aaron was aware, after talking with Arnold, that Simmons neglected to submit his 2003 insurance continuing education filing that was due on April 15, 2004, and that the Insurance Department had terminated Simmons's license on August 1, 2005.
7. Simmons sold PPL policies to the following individuals at the listed dates:
 - a. Gordy Lister, December 8, 2005;
 - b. Satellite Service LLC, January 4, 2006;
 - c. Maria B. P. Villamor, February 8, 2006;
 - d. Jay R. Garoutte, February 23, 2006;
 - e. Jason L. Andersen, February 28, 2006;
 - f. Judy V. Fossum, February 28, 2006;
 - g. Donald L. Andersen, February 28, 2006;

- h. Eric P. Brandt, February 28, 2006;
 - i. Wanda A. McKinney, March 6, 2006;
 - j. Raeann Svedberg, March 8, 2006;
 - k. Raelynn S. Nelson, March 31, 2006;
 - l. Geraldine Maughan, April 14, 2006;
 - m. Charlotte R. Thiessen, April 17, 2006;
 - n. Geraldine Maughan, April 21, 2006; and
 - o. Steven W Maughan, April 27, 2006.
8. PPL paid Simmons \$1,243.14 in commissions for the sales listed above.
9. On July 26, 2006, an insurance producer told Arnold that Simmons was selling insurance in Montana with a terminated license.
10. The ensuing investigation found insurance regulation violations, but did not find any instances of where Montana citizens were harmed by the actions of Charley Simmons or Pre-Paid Legal.

II.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance pursuant to § 2-15-1903, MCA.
2. The Insurance Department is under the control and supervision of the Commissioner pursuant to § 33-1-301, MCA.
3. A person may not transact a business of insurance in Montana or a business relative to a subject resident, located or to be performed in Montana without complying with the applicable provisions of this code pursuant to § 33-1-102, MCA.

4. The Commissioner shall administer the Department of Insurance to protect insurance consumers pursuant to § 33-1-311, MCA.
5. In violation of § 33-17-1103, MCA, Simmons accepted valuable consideration from PPL when not holding an insurance producer license.
6. Simmons sold, solicited and negotiated insurance or acted as an insurance producer in this state without an insurance producer's license in violation of § 33-17-201, MCA.

III.

AGREEMENT

Charlie Simmons (Simmons) stipulates and agrees to the following:

1. Simmons agrees to pay a fine of \$1243.14.
2. This consent agreement becomes an order of the commissioner upon all parties signing.
3. In waiving the right to contest the allegations and by entering into this Consent Agreement and Final Order, Simmons neither admits nor denies the substance of the allegations of the Commissioner.
4. That Simmons states that he has read the foregoing Consent Agreement and Final Order, that he knows and fully understands its contents and effect. Simmons acknowledges that he has been advised of his right to be represented by legal counsel and if represented by legal counsel, acknowledges that his legal representative was satisfactory. He further acknowledges and waives his right to a hearing in this matter, his right to present evidence and arguments to the Commissioner, and his right to appeal from an adverse determination after

hearing. Simmons understands that by signing this Consent Agreement that he waives these rights. Simmons acknowledges that he enters into this Consent Agreement voluntarily, and without reservation.

5. Simmons understands that this Consent Agreement and Final Order constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.
6. Simmons agrees that compliance with this Consent Agreement and Final Order shall be a final compromise and settlement of the matters set forth herein.
7. Simmons agrees that this Consent Agreement shall be incorporated and made a part of the attached Final Order issued by the Commissioner. Simmons understands that this Consent Agreement is not effective until such time as the following Final Order is signed.
8. Simmons further understands that, upon signing of the Final Order by the Commissioner or his representative, this Consent Agreement and Final Order will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann., § 33-2-119 and/or other applicable statutes or rules, and may result in subsequent legal action by the Department.
9. Simmons understands that this Consent Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise be withheld from the public. Simmons further understands that the Department

of Insurance reports the Consent Agreements and Final Orders with the National Association of Insurance Commissioners.

IV.

1. Pursuant to the Consent Agreement and Final Order (Consent) of Charlie Simmons, the Commissioner, under authority of the Insurance Code of Montana and § 2-4-603, Mont. Code Ann, agrees that if the terms of this Consent are fully met, the Commissioner will not initiate any civil, criminal or administrative action against Simmons regarding the insurance transactions alleged and contained in the Consent.
2. In consideration for the Commissioner not initiating any civil, criminal or administrative action, Simmons fully and forever releases and discharges the Office of the State Auditor, the elected State Auditor and all employees and contractors of the State Auditor's Office from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above-entitled administrative action.

Charlie A. Simmons
Charlie A. Simmons

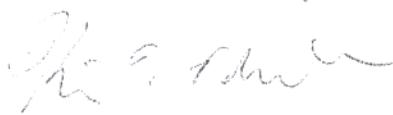
Subscribed and sworn to before me this 17th day of February, 2008.

March

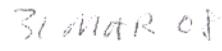
(SEAL)

Howard E. Spoggin
Printed name: Howard E. Spoggin
Notary Public for the State of Montana
Residing at Lewistown, MT
My commission expires May 8, 2011

ACCEPTED ON BEHALF OF THE INSURANCE DEPARTMENT:



Kevin F. Phillips, Staff Attorney



Dated

FINAL ORDER

Pursuant to the authority vested by the Montana Insurance Code, Mont. Code Ann Ann. § 33-1-101, *et seq.*, and upon review of the forgoing Consent Agreement and good cause appearing,

IT IS ORDERED that the foregoing Consent Agreement between the Insurance Department and Charlie A. Simmons is hereby adopted as if set forth fully herein.

DATED this April 7th day of April, 2008.

JOHN MORRISON
State Auditor and Commissioner of Insurance

By: John Morrison
Title: Deputy State Auditor

cc: Pre-Paid Legal